



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Conduct a Public Hearing to Introduce an Ordinance Amending Chapter 13.20 "Electrical Service" by Adding a New Section 13.20.320 Titled Schedule NST - New Sales Tax Economic Development Rate (EUD)

MEETING DATE: May 19, 2010

PREPARED BY: Interim Electric Utility Director

RECOMMENDED ACTION: Conduct a Public Hearing to introduce an ordinance amending Chapter 13.20 "Electrical Service" by adding a new Section 13.20.320 titled Schedule NST - new sales tax economic development rate.

BACKGROUND INFORMATION: The Electric Utility Department proposes a new electric utility rate: the New Sales Tax (NST) Economic Development Rate. The proposed NST rate was presented to the Council on April 7, 2010.

The proposed NST has three primary objectives:

- 1) enhance sales tax revenue to Lodi's General Fund;
- 2) reduce the vacancy rate of commercial properties in Lodi, thus reducing the potential for property neglect, vandalism and/or blight; and,
- 3) strengthen Lodi's commitment to business growth and economic development during this temporary national economic downturn.

The NST would be available to commercial customers who generate \$100,000 in sales tax or more per year, and occupy a property that has been vacant for a minimum of 90 days. The discount would be 10 percent through Fiscal Year 2010/11 and 5 percent through FY 2011/12. When the incentive expires, economic conditions could be assessed as to whether renewal is warranted.

The ordinance to be introduced is attached.

FISCAL IMPACT: Unknown. Dependent upon the number of participants, and how many of those would not occupy the vacant property without the discount.

FUNDING: Not applicable.

A handwritten signature in black ink, appearing to read "Kenneth A. Weisel".
Kenneth A. Weisel
Interim Electric Utility Director

KAWlst

APPROVED: A handwritten signature in black ink, appearing to read "Konradt Bartlam".

Konradt Bartlam, Interim City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE LODI CITY COUNCIL
AMENDING CHAPTER 13.20, "ELECTRICAL SERVICE,"
BY ADDING A NEW SECTION 13.20.320 - SCHEDULE
NST—NEW SALES TAX RATE

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Section 13.20 is hereby amended by adding a new Section 13.20.320 "Schedule NST—New Sales Tax Rate" to read as follows:

13.20.320 Schedule NST—New Sales Tax Rate

A. Applicability. This rate discount is available to qualified commercial customers on the G1, G2, G3, G4, or G5 rate for the purpose of attracting new businesses generating substantial sales tax revenue into vacant properties.

B. Commercial Businesses.

1. Qualifying Customers. A qualifying customer is one who:

- a) Takes permitted occupancy after June 30, 2010, of property within the City of Lodi ("Lodi") and receives electric service from the City of Lodi. The property must be unoccupied for at least ninety (90) days prior to the subject occupancy ("subject property"); and
- b) At the subject property, makes retail sales that generate New Sales Tax of \$100,000 per year or more, as determined by the City of Lodi; and
- c) Files a complete application requesting a new sales tax rate (NST).

2. New Sales Tax.

- a) "New Sales Tax" as used in paragraph B(1)(b) above refers to the portion of the sales tax paid to the City of Lodi generated by sales at the subject property ("Lodi NST");
- b) A business that relocates within the City of Lodi must generate an additional \$100,000 of Lodi NST over their prior twelve (12) months sales tax to qualify for this rate.

C. Discount. The discount shall equal ten percent of the electric portion of the Lodi utility bill associated with the load of the qualified customer at the subject property for bills for periods ending with meter readings in the year ending June 30, 2011, and five percent for the electric portion of the Lodi utility bill associated with the load of the qualified customer at the subject property for periods ending with meter readings in the year ending June 30, 2012. The discount shall not apply to the solar surcharge, CEC fee, state energy tax, or any other assessment or charge levied on electric bills after the effective date of this rate

schedule unless specifically provided otherwise. These discounts shall expire for bill periods ending with meter readings after June 30, 2012.

D. Verification. Customer must provide information satisfactory to Lodi regarding the planned size of the new load and sales tax generation. If, in the opinion of Lodi, a customer is deemed qualified on the basis of sales tax projections, but is later found not to be qualified, on the basis of actual sales tax generation, then any discount will be rebilled and due back to Lodi. If, in the opinion of Lodi, a customer is deemed not to be qualified on the basis of sales tax projections, but is later found to be qualified, on the basis of actual sales tax generation, then any discount due for the applicable retroactive period will be credited to the customer's account.

E. Tourism and/or Wine Industry Businesses.

1. Customers who meet the qualifications for both the NST rate and the Tourism and/or Wine Industry Business discount under the EDR rate will be given the larger of the two discounts, but not both, for the period in which they meet the qualifications for both.

F. Sunset. This NST rate shall expire at the end of June 2012. It shall not apply to any bill based on the customer's meter readings taken after June 30, 2012.

G. Lodi shall be responsible for establishing administrative rules and processes for administering this rate schedule. Customers shall provide information on a timely basis to enable EUD to verify eligibility and to administer the terms of this rate schedule.

SECTION 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. All ordinances, resolutions, and other actions and parts thereof in conflict herewith are repealed insofar as such conflict may exist.

SECTION 5. This ordinance shall be published pursuant to law and shall become effective 30 days from the date of passage and adoption.

SECTION 6. This amended Schedule referenced above shall be effective on applicable electric utility billings prepared by the City of Lodi on or after July 2, 2010, or the first date allowable under State law.

Approved this _____ day of _____, 2010

PHIL KATZAKIAN
Mayor

ATTEST:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of Lodi held May 19, 2010, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. _____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER
City Attorney

New Sales Tax (NST) Rate Discount

Lodi City Council
May 19, 2010



NST Rate Discount

- **Goals**
- **Qualifications**
- **Discount**
- **Timeline**



Goals

- **Enhance sales tax revenue to General Fund**
- **Reduce vacancy rate of commercial properties**
 - **avoid neglect/vandalism/blight**
- **Strengthen Lodi's commitment to business growth and economic development during temporary economic downturn**



Qualifications

- **Commercial customer: G1, G2, G3, G4, G5 rate**
- **Generate \$100,000 or more in sales tax per year (Lodi share)**
- **Occupy property that was vacant for 3 months or more**
- **If leaving another property vacant (moving from one Lodi property to another), the increase in sales tax for Lodi must be \$100,000**



Discount

- **10% electric discount through FY10/11 and 5% electric discount FY11/12**
- **Discount sunsets June 2012**
- **Tourism and/or Wine industry business, receives the larger of EDR or NST discount, not both**
- **After-the-fact verification: return of discount, if expected sales tax is not generated**



Timeline

- April 7, 2010 1st Council presentation
- April 21, 2010 Set date for Public Hearing
- **May 19, 2010 1st Reading: Introduce Ordinance and hold Public Hearing**
- **June 2, 2010 2nd Reading: Adopt Ordinance**
- **July 1, 2010 Occupy on or after**
- **July 2, 2010 Effective date,
for meter readings on or after**



Questions

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*Please immediately confirm receipt
of this fax by calling 333-6702*

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: PUBLIC HEARING TO CONSIDER INTRODUCING ORDINANCE
AMENDING LODI MUNICIPAL CODE CHAPTER 13.20, "ELECTRICAL
SERVICE," BY ADDING NEW SECTION 13.20.320 TITLED, "SCHEDULE
NST - NEW SALES TAX ECONOMIC DEVELOPMENT RATE"

PUBLISH DATE: SATURDAY, APRIL 24, 2010

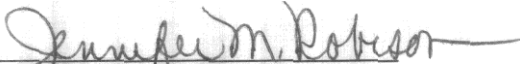
LEGAL AD

TEAR SHEETS WANTED: One (1) please

SEND AFFIDAVIT AND BILL TO: RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, APRIL 22, 2010

ORDERED BY: RANDI JOHL
CITY CLERK


JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

Faxed to the Sentinel at 369-1084 at _____ (time) on _____ (date) _____ (pages)

Phoned to confirm receipt of all pages at _____ (time) _____ JPM _____ MB _____ CF (initials)



DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER INTRODUCING ORDINANCE AMENDING LODI MUNICIPAL CODE CHAPTER 13.20, "ELECTRICAL SERVICE," BY ADDING NEW SECTION 13.20.320 TITLED, "SCHEDULE NST - NEW SALES TAX ECONOMIC DEVELOPMENT RATE"

On Friday, April 23, 2010, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider introducing ordinance amending Lodi Municipal Code Chapter 13.20, "Electrical Service," by adding new Section 13.20.320 titled, "Schedule NST - New Sales Tax Economic Development Rate" (attached and marked as Exhibit A) was posted at the following locations:

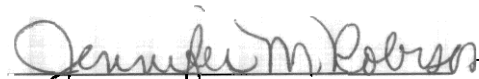
Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 23, 2010, at Lodi, California.

ORDERED **BY:**

RANDI JOHL
CITY CLERK


JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: May 19, 2010

Time: 7:00 p.m.

For information regarding this notice please contact:

Randi Johl

City Clerk

Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, May 19, 2010**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) **Introduce ordinance amending Lodi Municipal Code Chapter 13.20, "Electrical Service," by adding new Section 13.20.320 titled, "Schedule NST – New Sales Tax Economic Development Rate."**

Information regarding this item may be obtained in the Electric Utility Department, 1331 South Ham Lane, Lodi, (209) 333-6762. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: April 21, 2010

Approved as to form:

D. Stephen Schwabauer
City Attorney